

Minutes of the Commission Meeting of the Board of Commissioners, Carbon County, State of Utah, held May 17, 2016 at the Administration Building, Price, Utah, commencing at 4:00 p.m.

Those present: Jae Potter, Commission Chair
 Jake Mellor, Commissioner
 Casey Hopes, Commission

Also present: Seth Oveson, Clerk/Auditor
 Sandy Lehman, Commission Secretary
 Lori Perez, Deputy Clerk
 Jeff Wood, Sheriff
 Christian Bryner, Attorney
 Rose Barnes, HR
 Kay Colosimo, Treasurer
 Tami Ursenbach, Economic Development
 Rhonda Peterson, Fairgrounds

Clerk's Certificate of Compliance with Open Meeting Law was filed.

Commissioner Potter welcomed everyone and led the Pledge of Allegiance. The meeting began at 4:00 p.m.

1) Presentation of Retirement Plaque to Rhonda Peterson

Commissioner Potter presented Rhonda Peterson with a retirement plaque after having served the County for thirty years. Rhonda said it has been a journey and she has gone through a lot of commissioners and employees. She appreciates everyone for the support she has had over the years. Commissioner Potter thanked her for her years of service and said she will be a hard to replace. She will be missed and was thanked by all.

2) Convene as Carbon County Municipal Building Authority

Commissioner Mellor made a motion to convene as the Municipal Building Authority. Commissioner Hopes seconded. Motion carried.

A. *A Resolution of the Municipal Building Authority of Carbon County, Utah (The "Authority") authorizing an Annually Renewable Lease Agreement, Between The Authority and Carbon County, Utah (The "County"); authorizing the Sale by the Authority of Its Lease Revenue Bonds, In One or More Series, In the Maximum Aggregate Principal Amount of \$14,800,000 (The "Series 2016B Bonds"); appointment of a Pricing Committee; Authorizing a General Indenture, First Supplemental Indenture with Respect to The Series 2016B Bonds and a Second Supplemental Indenture with Respect to The Series 2016C Bonds, Lease, Ground Lease, Security Documents, Bond Purchase Agreement, and Other Documents; Authorizing a New Court Facility, and Related Improvements; Authorizing All Other Necessary Actions; and Related Matters.*

Commissioner Hopes said we are here to pass a resolution for the new building. Commissioner Potter mentioned that we did have a public hearing in the last commission meeting and there were no comments. This new 7th District Court building is being funded by the State. This is authorizing this new project.

Commissioner Mellor made a motion to pass Resolution MBA 2016-3 Authorizing an Annually Renewable Lease Agreement between the Authority and Carbon County. Commissioner Potter seconded. Motion carried.

B. *Adjourn as Carbon County MBA: Reconvene as Carbon County Board of Commissioners*

Commissioner Potter made a motion to adjourn as the Carbon County Municipal Building Authority and reconvene at the Board of Commissioners. Commissioner Mellor seconded. Motion carried

3) A Resolution of Carbon County, Utah (The "County") Authorizing an Annually Renewable Lease Agreement, Between The County and the Municipal Building Authority of Carbon County, Utah (The "Authority"); Authorizing The Sale by The Authority of its bonds, In One or More Series, In the Maximum Aggregate Principal Amount of \$14,800,000 (The "Bonds"); Respect to the Bonds, A Ground Lease, Any Bond Purchase Agreement(s), Security Documents, and Other Documents; Authorizing The Construction of of a New Court Facility, And Related Improvements; Authorizing All Other Necessary Actions: And Related Matters.

Commissioner Mellor made a motion to approve the Resolution 2016-5 Authorizing an Annually Renewable Lease Agreement between Carbon County and the Municipal Building Authority. Commissioner Hopes seconded. Motion carried.

4) **Approval of Minutes**

Commissioner Hopes made a motion to approve the April 20, 2016 Work Meeting minutes. Commissioner Mellor seconded. Motion carried.

5) **Request for extension of time to pay delinquent property taxes – Mark Martinez**

Mark Martinez said his main issue is that he had not received any notices in the mail. His address had changed from a PO Box to an HC address. The first notice he received was the certified letter last week. He is asking for an extension to put down a payment on his taxes and schedule payments over the next twelve months. Commissioner Potter asked for a total of the five years owed.

Kay Colosimo, the County Treasurer said he owes \$1,756.33 plus the \$300 for the title search. Commissioner Mellor asked Mark if he had not received any notices for the last five years. He said no. Kay said she had sent letters to him before and had not received any back from the post office. He has not paid anything in the last five years. He was not aware of the tax sale scheduled for next Thursday until he received the certified letter.

Commissioner Potter asked why he had stopped paying his taxes. Mark said he moved out in 2010 and has had some other issues. He had not realized this property was at this point. Commissioner Potter asked what kind of down payment he is proposing. He didn't know. Commissioner Potter asked what other options he has to remedy this now before the auction, is there family he can go to or other properties to borrow against. Mark said this is the first time he knew about this and hasn't made any arrangements.

Kay explained that the notices she sent went to the HC address and were not returned by the post office. Seth said the certified disclosure notices would have gone to the address on file but the difference is that it was a certified letter and the post office in East Carbon put it in his PO Box instead.

Commissioner Potter asked if he had had his mail forwarded in the last five years. He has not but does get mail at the post office box.

Seth said when a tax payer moves it is their responsibility to update their information with any taxing entity. It is not the county's responsibility to update this information. Notices are sent to the last known address of record as provided by the tax payer.

Christian said the case law is that failure to receive the tax notice does not relieve the tax payer of his burden to pay and it does not give him the right to ask for a waiver of penalties and interest. The statutory law says you can make an arrangement with the property owner to defer the payment of taxes and you can grant Mr. Martinez extra time to make those payments if you wish, by law he is not entitled to extra time just because he did not receive a tax notice.

Mr. Martinez said he wants to pay the full amount. Commissioner Potter asked what one year of back taxes is owed. Kay said the taxes are about \$300 plus the \$10.00 penalty, interest is \$88.00. Kay spoke to the assessor and next year the taxes will be more because it has been removed as the primary residence because no one lives there. East Carbon was just reappraised.

Commissioner Hopes said what he pays today will go to the most current year. Christian said if he fails to pay the full amount established tonight he would still be five years in arrears and the property would still go to the tax sale even if he is a dollar short. By law the payments have to be applied that way.

Commissioner Mellor said this particular situation doesn't compare with any of the other exception made in the past because none of Mr. Martinez's notices were returned by the U.S. Post Office. There is no evidence to support his claim that he didn't receive any notices.

Christian explained that the Commissioners are allowed to do what is in the best interest of the County as well as the entire circumstances and would include Mr. Martinez's own circumstances. Kay said Mr. Martinez filled out a form prior to this meeting explaining his situation. Currently Mr. Martinez trades work for rent on the home he resides in. Commissioner Potter asked if he had intention to move back into this property. Mr. Martinez said his father passed away in 2012 and he has left it empty because it needs remodeling.

Commissioner Hopes asked if Mr. Martinez is employed and could he make payments. Mr. Martinez said yes he could. Seth had explained payment options he might have. Mr. Martinez is currently working at Sutherlands part time and does part time work for his brother. Commissioner Hopes asked how much he could put down today. Kay said the amount due today is \$324.94. He doesn't have that money today he will need sixty days to get it.

Commissioner Mellor said if an agreement is made he would need to come up with the down payment before the tax sale. Mr. Martinez asked if it could be less than that. Commissioner Potter asked for at least one year in full and then the other could be spread over the months.

Commissioner Mellor made a motion to allow Mr. Martinez to pay one year's taxes before Wednesday, the day before the tax sale, then allow the rest of the money that are in arrears to be paid by December 1, 2016. Commissioner Hopes seconded. Motion carried.

Commissioner Potter asked that Mr. Martinez work with Seth and the Treasurer's office. As of today the one year amount due is \$324.94 and by next Wednesday it will be a little bit more.

6) Request for fee waiver for the Event Center for the Centennial of the Greek Church – Pam Cha

Pam Cha said on August 19-21st the Greek Orthodox Church will be celebrating its 100th anniversary. This is a once in a lifetime event and they are trying to make it very special. They have a three day event planned. They have a golf tournament scheduled on Friday morning and historic tours of Kenilworth and other places for Saturday. It is also being held on the same weekend at the Helper Arts Festival. They have arranged for three hotels to host events for them with discounted rates. The main event is a dinner held at the Event Center that will be catered by Sam Farlaine. They are bringing in Metropolitan Isaiah who is in charge of the Denver Metropolis which involves many of the surrounding states. Past priests are being invited plus visitors from all over.

They are anticipating bringing in a lot of people who will be booking hotel rooms bringing in a lot of revenue to the County. Because it is a once in a lifetime event they would like to have the fees waived for the Event Center, they are a non-profit entity and support other community events.

Commissioner Potter asked about the regular Greek Festival held in July. They will still hold this festival in July. This will be a separate special event. Pam said they have invited many dignitaries and others who have connections with the community. People have shown interest in coming back to visit Carbon County.

Three to four thousand people visit during regular Greek Festival. Commissioner Potter asked Frank what the fee is for the Event Center. Frank said they are going to renegotiate the fee schedule but they quoted half price to Pam, normally it is \$1,000. In this situation, Frank is in favor of waiving the fees. There are other ways for the County to recoup this fee.

Commissioner Mellor asked if instead of waiving the fees, money could be granted to them by the Office of Tourism. We want to encourage events but we don't want to encourage waiving fees. Frank said he is in favor of doing that and in the future they want to set up a non-profit fee schedule so that these types of entities can afford to still hold events. There would be an application process. Commissioner Potter said we have been discussing this for the future. Christian said if there are funds available the Commission can make a motion and apply those funds now.

Commissioner Mellor made a motion that in place of providing a waiver, that we retain the \$500 fee negotiated by Frank but use Travel and Tourism Tax monies to pay that fee for the Greek Church, a non-profit entity. Commissioner Hopes seconded. Motion carried.

7) Appointment of Housing Authority Board Member

Commissioner Potter said four applications were received and were discussed in the last commission meeting. There were questions as far as advertising for the position. Christian said he checked with the board and the notices did go out to all residents who could apply. The Commission can appoint members tonight. This is for a one year term.

The Commissioners agreed that all who have applied would serve well. Commissioner Hopes made a motion to appoint Brian Salzetti to the Housing Authority Board. Commissioner Mellor seconded. Motion carried.

8) Public Hearing to consider and possibly approve a recommendation from the Planning Commission for Conditional Use Permit for Castle Gate RV Park at approximately 5100 N. Spring Glen Rd. for Tom Lund.

Christian said it looks like the application for this conditional use permit was based upon the premise that the zoning was correct. Actually zoning for that use is not allowed where it currently is. A zone change should have been applied for initially. Regardless, we cannot approve a conditional use permit in this zone. We also need to get approval from our

engineers on drainage plans. A zone change application for this area is needed. We can still have the public hearing knowing that the commission cannot act on this tonight. The public needs to know that we do not need comments on the zoning issue. He recommends still having the public hearing to address other issues.

Commissioner Hopes said the drainage plans have been reviewed and there were things that need to be fixed. Curtis is waiting for their engineer to submit new plans. It is currently zoned a 4-1-20 and it needs to be commercial zoning.

Commissioner Potter said with that information he opened the public hearing at 4:44 p.m.

Linda Topolovec said her concern is the right of way for the Stowell and O'berto canals and she wants to make sure they are not impacted. She wanted to make sure that no permanent structures go in where those canals are located and to allow for maintenance. Commissioner Hopes said the Stowell ditch is no longer in use. Linda said the Stowell ditch is still a ditch company but the head gate is not functional. It's the ditch right of way that she is concerned with.

The development code for RV parks does not allow for permanent occupancy, how will this be regulated. She wants to make sure this is being used for the right purposes. We do not want to set up occupancy that degrades property values. Her last concern is the impact of the RV Park on the Blue Cut to Highway 6 exit. It has five site restricted curves on it and she asked if UDOT could reduce the speed and work on a better entrance to Highway 6, whether its putting in a light or something at this entrance. It is now a bottleneck with truck traffic.

Richard Tatton, the chairman for Planning and Zoning, asked since there is going to be an absence of a director in Planning and Zoning with Dave Levanger's retirement, he would like to set up the hearing for the zone change as soon as possible. Concerning the ditch that Linda brought up, he asked if the ditch has an easement to cross that property. Mr. Lund has indicated that he would work around the ditch but Richard doesn't think this is an issue because there is not a record on that property.

Bob Olsen and his wife Michelle Fidel run the Blue Cut RV Park which is located on Carbonville Road just south of the exit. Her mother and father built the RV Park in the mid-seventies and it has been in operation ever since and was on the main thoroughfare at that time. It has been a good family business. This will place them in competition with Mr. Lund's project which is good. The first time he met Mr. Lund was a week ago when Mr. Olsen was driving through their trailer park. As he inspected his trailer park he noticed two cars parked at the main entrance. He asked if he could help them. Mr. Lund said they were having a meeting with Good Sam's people. Upon further questioning Mr. Lund got angry. Mr. Olsen expressed his concern with Mr. Lund's character.

Jaimie and Phil Howa live next to the field where the RV Park will be built. He is concerned that the now open field will soon be filled with people he doesn't know. It will drop his property value. His wife has lived on this property for 26 years and it is paid off. They have never been talked to or approached by the developer. They do not like it and thinks it is underhanded. What is the guarantee that it won't turn into a trailer park when it doesn't work out as an RV park. He is concerned about the exit and entrance off of Highway 6. They do not think this is a good location for an RV park.

Jaimie said she has watched the decline of Helper and does not see the County as an end destination. She sees it as another failed business. She is worried about the decline of property values and this is in her back yard. She hopes that the Commission will take into consideration the impact on their lifestyle and property value.

Commissioner Potter said this has to go back to zoning and will take two weeks to advertise and may be held the second meeting in June.

Commissioner Mellor said Helper City is considering annexing this area into their city limits. If the annexation happens quickly, it will be up to Helper City to consider this issue.

Curtis Page said he is not sure how this project was approved through the planning commission due to the lack of submittals that are required for this development. The development code requires that plans be approved and other things are done before final approval is given by the Planning Commission. Dates for the zone change are fine but he would like to advise that prior to final approval the engineers have to approve the drainage plan and other things missing from the application. Moving forward we need a complete submittal from the applicant with approvals and recommendations to move forward by staff before it is put on the agenda for final approval by the planning commission. It is Curtis's job to make sure that conditions of the development code are met. It needs to be consistent with all other development that has occurred since he has become the County Engineer.

Christian said with respect to what Mr. Tatton spoke about the proper thing to do is to not schedule a planning meeting until a zone change application has been turned into the planning office. At that point, the planning office can get with

the planning commission about scheduling an expedited meeting if that needs to be done. The Commissioners do not need to be concerned until that is finished.

Tom Lund, the developer of the project, said he disagrees with the interaction with Bob Olson. Good Sam is an organization that has 1.6 million members. They are a subsidiary of Camping World and they rate RV parks all over North America. Their representatives come to Utah once a year. They knew he was working on this project and wanted to meet and see the site and the competition. Mr. Lund drove down to meet with them. They did pull into the Blue Cut RV Park and they were talking about the different amenities. Mr. Olsen did pull up and according to Mr. Lund, seemed to insinuate that something illegal was happening. The Good Sam people had badges on and everyone left in order to avoid a confrontation.

Concerning Howa's, Mr. Lund stated that the parcel being developed is half in Helper City and the south half is in Carbon County. They have met with Helper City Council and they have approved the project. George Harmond and Chuck Buchanan own the remaining land and have submitted paperwork to the attorneys for the annexation of the southern portion. Christian said he has seen the paperwork. Helper City has to formally act upon that and he is not aware of where they are in that process. Tom said there is a zoning issue with the County and Helper City has approved a zone change for an RV park and we are moving forward toward an annexation. He wonders why Carbon County has to do a zone change when it will ultimately be in Helper City.

Commissioner Potter said there may be more than one entity needing to make applications for a zoning change within the County. Each property owner would need to request that change and submit an application. Tom said that Mr. Harmond has submitted paperwork for annexation. Commissioner Potter said then its back to the time frame and why are we considering this when it is going to be in Helper City. Christian said it may be best to finish the annexation and then have Helper handle all of it. Commissioner Potter said it doesn't address all of the questions but it would give jurisdiction as to who should act.

Commissioner Mellor asked about what time frame is being considered for annexation. Christian said there are two or three things that trigger time elements and they are all different.

Tom said PRWID has a sewer line through the length of the property and he has talked to Jeff Richens who has an agreement with Helper City for an easement to provide that land to Helper City. Tom is not sure how that works but PRWID has been in contact with Helper City.

Commissioner Potter asked for other comments and Christian said he will check on the annexation and how that is proceeding.

Linda Topolovec responded to Richard Tatton's comment on the ditch right of way. She said the ditch company has been in existence for 100 years. She will make sure that right of way gets documented.

Commissioner Potter closed the public hearing at 5:12 p.m.

Commissioner Hopes made a motion to table. Commissioner Mellor seconded. Motion carried.

9) **Public Hearing to consider and possibly approve a recommendation from the Planning Commission for a Conditional Use Permit for the installation of a new pumping unit on Well 28-863 for Conoco Phillips**

Gilbert Vasquez said they want to put a pumping station on Well 28-863. This was a free flowing well in 2008 and now the pressure has dropped. They need the pumping station to get the water off and help to get to the gas.

Commissioner Hopes asked for the size. Gilbert said it would be a smaller pump jack 1/14 unit. The footprint will be 15x30 feet and about twenty feet tall.

It is just off of Highway 6 just east of the Sinclair/Market Express just south of the river. Commissioner Hopes asked about the noise level. Gilbert said this well has a pump off control on it and may run 50% of the time. They have another well 3000 feet east of this one that runs all the time and is bigger with no complaints.

Christian said this did get a favorable recommendation from the Planning Commission.

Commissioner Potter opened the public hearing at 5:15 p.m.
Seeing no responses the public hearing was closed at 5:16 p.m.

Commissioner Hopes made a motion to approve. Commissioner Mellor seconded. Motion carried.

10) Consideration and possible approval of Court Security and Bailiff Contracts with Utah Administrative Office of the Courts (AOC).

Christian would like to table these. He, Seth and Sheriff Wood have found some issues with the contracts and would like to address them. The contracts are not set to begin until July 1.

Commissioner Potter said we have time and it won't impact court security because we are still operating on the old contracts. Commissioner Hopes asked for a date to bring it back. Christian said the second meeting in June.

Commissioner Hopes made a motion to table until the second Commissioner Meeting in June. Commissioner Mellor seconded. Motion carried.

11) Consideration and possible approval of agreement for joint or cooperative undertaking to establish a public insurance agency mutual for the purposes of administering the Utah Search and Rescue Act.

Christian said he does not have any new information on this. Commissioner Hopes has read through the Utah Code and feels that it is okay. Sheriff Wood said it seems okay. He brought it up to Search and Rescue last night and they did not know a lot about it either but they didn't think it would be a problem. It seems to be a program to refund the fund that reimburses them for supplies when they do searches.

Commissioner Hopes said the only information he found that currently funds this is .25 cents on a fish or hunting license, .50 cents on off highway vehicles and .50 cents on boat registrations. The only thing he did find is if you go out and get stuck because of an error on your part you may still have to pay for your own rescue. It is not a get out of jail free card, it has conditions. Sheriff Wood said currently if you get stuck or stranded they will find you. If you get stuck because you are foolish or you are a repeat offender you will be charged.

Commissioner Mellor asked if other counties have entered into this agreement and what happens in the future if people ask for adjustment. Commissioner Hopes said it would have to go through the Utah Code, it is a law. Commissioner Mellor said if there is no real need to jump on this should we table this. Sheriff Wood said there is no need for this agreement right now.

Commissioner Mellor made a motion to table until after we have received more information. Commissioner Hopes asked what would happen if we don't participate. Who would reimburse for the supplies used for rescue and the training. Christian asked if we are already receiving funds. Commissioner Hopes said we are receiving funds and this is in addition to that. He doesn't know how it will work if we do not participate.

Commissioner Potter asked if Whitney or Justin could look into this deeper for more information. Sheriff Wood has talked to other sheriffs and they have the same information as Commissioner Hopes.

Commissioner Mellor asked if other county commissions had approved this. Sheriff Wood said they have and Grand County is one of them, but Grand County also has the most searches in the State. Commissioner Hopes noted a legal counsel contact on the bottom of the agreement we could contact. His name is Kevin Bullender.

Commissioner Hopes seconded the motion to table. Motion was tabled.

12) Discussion and possible approval of purchasing a 5 year license with Foundation Search – Tami Ursenbach

Tami said in the last commission meeting she was asked to find the \$9,000 for the Foundation Search software. We needed to know who would use the program and how to budget for it. So far she has \$2,000 each from the Senior Center and the Sheriff Department and \$1,000 each from Carbon Recreation/Fairgrounds, Office of Tourism and the Clerk/Auditors office which totals \$7,000. Tami may have two thousand coming from a couple of other sources and a couple of other departments may be on board which would be the \$9,000 total.

Commissioner Hopes said this needs to be paid by the end of the month or Tami said it goes from \$9,000 to \$20,000. Commissioner Hopes thanked Tami for her hard work. Commissioner Hopes made a motion to approve with these users who have agreed to pay and have the remaining \$2,000 coming out of the commission budget for now.

Commissioner Mellor asked to amend the motion to include that the remaining \$2,000 comes out of the Commission budget if Tami can't procure the remaining \$2,000. Commissioner Hopes said that was his intention and if other users want to come on then they could reimburse the commission budget. Commissioner Mellor seconded. Motion carried. Tami said if we get to a point where we need another user, the cost would be an additional \$750. One of the user names is designated for other entities other than the County. This user name will remain within the County but made available to other agencies. They would need to coordinate a time to use the program with Amy.

13) Review and possible approval of a Land Use Coordinating Resolution

Rex said this resolution is to give notice to the State agencies of the County's intention when dealing with them on Federal and State land issues. Commissioner Hopes asked why there is a need for this resolution. Rex said we have never had anything written when concerned with coordination. Written coordination was never needed. This will bring it up one more step. It is the difference between the prescriptive right of way for a ditch or having an easement line.

Commissioner Potter reminded everyone that this is a resolution and we are not enacting any laws. It is a reminder. This will be numbered 2016-6.

Commissioner Mellor made a motion to approve Resolution 2016-6. Commissioner Hopes seconded. Motion carried.

14) Review and possible approval of Property Tax Deferrals – Seth Oveson

Seth said because of the tax sale next week, we have received a request from another person who wants a deferral of his property taxes. He did not provide the form that is required. It is from Elton Foster from Helper and we received a letter that we not sale his property and defer his taxes. In doing research with the treasurer's office, this property is owned by Gordon Magann and in 2000 the property taxes were paid by Mr. Magann. Mr. Foster made the payments in 2002 and 2004. Then the rest of the payments came from Price Title Services. For the last five years no payments were made on this parcel. It is scheduled to go to the tax sale. We have not received the correct forms and the person requesting the deferral is not named on the title of the property, Seth thinks we should continue with the tax sale.

Mr. Foster, in a phone conversation, said he was purchasing the property from Mr. Magann. Mr. Magann then passed away and the property went into probate. There is still no proof of this. Mr. Foster still has until the morning to redeem the property. If he chooses not too it will go to the tax sale. Mr. Foster is not listed as an owner and he could bid on the property at the sale on Thursday morning.

The total amount owed is \$2,894.63 which includes the administrative fee. Courtney Jones from the Treasurer's Office verified that Mr. Magann passed away in 2007. The problem is we haven't been supplied any documentation of what actually happened. The last time money was received for property tax was in 2010.

Commissioner Mellor made a motion to proceed with the tax sale. Commissioner Hopes seconded. Motion carried.

15) Possible closed session for the purpose fo discussing the character or professional competence of an individual pursuant to U.C.A. 52-4-205

Commissioner Mellor made a motion to go into a closed session. Commissioner Hopes seconded. Motion carried.

Commissioner Hopes made a motion to leave the closed session and return to regular Commission Meeting. Commissioner Mellor seconded. Motion carried.

16) Review and Approval of Departmental Reports and County Warrant Edit Reports

Commissioner Hopes made a motion to adjourn. Commissioner Mellor seconded. Motion carried.

The meeting adjourned a 6:15 p.m.

ATTEST:



Seth Oveson, County Clerk/Auditor



